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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/598,687 | 05/29/2007 | Jos Kobussen | P07033US0 | 8984 |

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| EXAMINER | |
|---|---|
| LONG, LUANA ZHANG | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1782 | |

| NOTIFICATION DATE | DELIVERY MODE |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bstills@zarleylaw.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/598,687 | KOBUSSEN ET AL. | |
| | Examiner | Art Unit | |
| | LUANA Z. LONG | 1782 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *23 December 2010 and 28 September 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,3,4,6-13 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-4, 6-13, 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

Applicant's amendment to the claims in the reply filed December 23, 2010 is entered. Claims 1, 3-4, 6-13, and new claim 18 are currently pending in the application. Claims 2, 5 and 14-17 are cancelled.

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 28, 2010 has been entered.

### *Claim Objections*

Claim 1 is objected to because of the following informalities: the term "automatedly" in lines 15 and 19 of the claim should be corrected to "automatically." Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 8-9 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claims 8-9 and 18, the phrase "such as" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricklefs (already of record) in view of Kobussen (already of record).**

Regarding claim 1, Ricklefs discloses a method comprising: supplying an aqueous salt solution to an exterior of meat products, such as sausages (col. 3, lines 8-11 50-54), collecting the aqueous salt solution used when supplying the aqueous salt solution to the exterior of the sausage (col. 4, lines 4-6), reconditioning the collected aqueous salt solution, and then reusing the reconditioned aqueous salt solution when supplying the aqueous solution to the exterior of the sausages (col. 4, lines 6-17). Ricklefs also contemplates automatically monitoring the aqueous salt solution by measuring the concentration of a specific substance (salinity or turbidity) of the collected aqueous salt solution (col. 5, lines 23-25), and contemplates automatically adjusting the quality of the aqueous salt solution (salinity) by an intelligent control unit (maintain the

desired salinity of the brine in the circuits) (col. 3, lines 50-54, col. 4, lines 17-35). It is noted that amended claim 1 does not claim any specific apparatus or structure associated with the monitoring and control system. Since process control systems for automatically monitoring and adjusting process conditions are well-known in the art, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate those control systems to the system and process of Ricklefs, with the expected result of monitoring and controlling the salinity of the brine solution in the circuits.

Ricklefs is silent with respect to the sausage product being a co-extruded food product. However, it was well-known in the art at the time of the invention to make sausages by co-extrusion, as evidenced by the reference Kobussen.

Since Ricklefs' process can be applied to any meat product, particular sausages (col. 1, lines 5-19), since co-extruded sausages are well-known in the art, it would have been obvious to one having ordinary skill in the art at the time of the invention to apply the brine cleansing process of Ricklefs to co-extruded sausages.

Regarding claims 3 and 4, Ricklefs is interpreted to read on these limitations since the collected aqueous salt solution is filtered (membrane or like filtration unit 50) in a manner such that at least one component (contaminants) is substantially removed from the brine by means of, what is interpreted to be absorption (low-pressure membrane process) (col. 4, line 61 to col. 5, line 4).

**Claims 6-8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricklefs in view of Kobussen as applied to claims 1, 3 and 4 above, further in view of Keil (already of record).**

Regarding claims 8 and 18, they are indefinite for the reasons explained above. However, for the purpose of examination, the claims are interpreted to limit the oxidant to hydrogen peroxide.

Regarding claims 6-8 and 18, Ricklefs in view of Kobussen does not disclose adding hydrogen peroxide to the aqueous salt solution to prevent or at least partially reverse discoloration.

Keil discloses using hydrogen peroxide as a conditioning agent for treating collagenous material (col. 2, lines 43-44). Keil also discloses that hydrogen peroxide has the advantage of having bacteriocidal properties (col. 3, lines 7-13).

In view of Keil, it would have been obvious to one of ordinary skill in the art at the time of the invention to add hydrogen peroxide to the aqueous salt solution of Ricklefs in view of Kobussen, due to its disinfecting properties (Keil, col. 3, lines 7-13). Since hydrogen peroxide is a chemical known to be used as a bleach, it would be expected that the addition of hydrogen peroxide to the aqueous salt solution of Ricklefs in view of Kobussen prevents discoloration or reverses discoloration.

**Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ricklefs in view of Kobussen and Keil as applied to claim 8 above, further in view of Hignett (already of record).**

Regarding claim 9, it is indefinite for the reasons explained above. However, for the purpose of examination, the claim is interpreted to limit the salt derivative of a strong oxidant to sodium percarbonate.

Ricklefs in view of Kobussen and Keil does not disclose adding sodium percarbonate to the aqueous salt solution.

However, Hignett discloses that sodium percarbonate, which generates hydrogen peroxide in aqueous solution, can also be used as a disinfectant (col. 1, lines 10-18).

In view of Hignett, it would have been obvious to one of ordinary skill in the art at the time of the invention to add sodium percarbonate to the brine solution of Modified Ricklefs, with the motivation of using it as a disinfectant. It would be expected that the addition of sodium percarbonate to the aqueous salt solution of Ricklefs in view of Kobussen prevents discoloration or reverses discoloration.

**Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ricklefs in view of Kobussen and Keil as applied to claim 8 above, in further view of Barber (already of record).**

Ricklefs in view of Kobussen and Keil does not disclose adding an acid derivative to its aqueous salt solution.

Barber discloses a process where a brine solution is treated with a micro biocide, filtered and then reused in a brine bath tank (abstract and [0031]). Barber discloses that the micro biocide is peroxy acetic acid (also known as peracetic acid) ([0029]), which is an acid derivative disclosed by applicant (see Spec, page 4, para 1).

In view of Barber, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the peroxy acetic acid of Barber to the brine solution of Modified Ricklefs, with the motivation of avoiding the growth of bacterial and other microbes in the brine (Barber, [0029]).

**Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricklefs in view of Kobussen as applied to claims 1, 3-4 above, further in view of Riordan (already of record).**

Regarding claims 11-13, Ricklefs in view of Kobussen is silent with respect to irradiating the aqueous salt solution with ultraviolet radiation in order to at least substantially prevent or reverse discoloration of the salt solution.

Riordan discloses a method for purifying bacterially-contaminated brine overflow by passing the brine through a series of ultra-violet liquid purifying devices (see abstract and col. 1, lines 27-34).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the step of irradiating the aqueous salt solution of Modified Ricklefs with ultraviolet radiation, such as disclosed by Riordan, with the expected result of preventing or reversing discoloration of the salt solution. One of ordinary skill in the art at the time of the invention would be motivated to do this in order to decrease bacterial contamination of the salt solution (Riordan, col. 2, lines 60-64).

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-4, and 6-13 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed September 28, 2010 have been fully considered but they are not persuasive.

Applicant argues on pages 7-8 of the remarks that Ricklefs does not provide any disclosure of providing automated monitoring of the brine by measuring a specific substance of the brine solution or providing automated adjustment of an aqueous brine solution by an intelligent control unit as required by amended claim 1. However, as explained in the rejection of amended claim 1 above, Ricklefs does contemplate monitoring and adjusting the salinity of the brine solution to maintain the desired salinity of the brine solution. It is noted that amended claim 1 does not claim any specific apparatus or structure associated with the monitoring and control system. Since process control systems for automatically monitoring and adjusting process conditions are well-known in the art, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate those control systems to the system and process of Ricklefs, with the expected result of monitoring and controlling the salinity of the brine solution in the circuits.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUANA Z. LONG whose telephone number is (571)270-1152. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. Z. L./
Examiner, Art Unit 1782

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1782